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806 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20006 (202) 835-8000
FAX (202) 835-8136

CHICAGO OFFICE THREE FIRST NATIONAL PLAZA 4002
DALLAS OFFICE 5700 BANK ONE CENTER 1717 MAIN STREET 75201

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APR 30 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

JOHN P. BANKSON, JR.
(202) 835-8096

April 30, 1993

BY HAND

Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Re: WMFP(TV), Lawrence, MA;
Petition for Rulemaking to Amend § 76.51(a)(6)

Dear Ms. Searcy:

On behalf of MFP, Inc., licensee of the above station, we are filing the original and four (4) copies of its Petition for Rulemaking in the above proceeding.

Very truly yours,


John P. Bankson, Jr.

JPB/lp
Enclosures

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

RECEIVED

APR 30 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Amendment of Section 76.51)
of the Commission's Rules to)
Include Lawrence, Mass.)
in the Market Presently)
Designated the "Boston-)
Cambridge-Worcester,)
Mass." Market)

MM Docket No. 93-_____
RM _____

TO: Roy J. Stewart, Chief
Mass Media Bureau¹

PETITION FOR RULE MAKING

MFP, Inc., licensee of WMFP(TV) ("WMFP"), Lawrence, MA., by its attorneys and pursuant to 47 C.F.R. § 1.401, petitions for rule making to amend 47 C.F.R. § 76.51(a)(6) to change the designation of the "Boston-Cambridge-Worcester, Mass." major television market to "Boston-Cambridge-Lawrence-Worcester, Mass.".

1. The television market list in § 76.51 was adopted in 1972 as part of the implementation of "must carry" by cable television systems. It has on occasion been amended to reflect changing conditions. The criteria for inclusion include Grade B coverage, the degree of overlap of service contours (indicating

¹ To be acted upon under delegated authority per Report and Order in MM Docket No. 92-259 released March 29, 1993, fn 150 (p. 32).

the existence of "a single television market for economic purposes"), and Arbitron designations.²

2. While "must carry" was found unconstitutional in 1985 and 1987,³ the Cable Television Consumer Protection and Competition Act of 1992 ["Cable Act"],⁴ gives "must carry" new life. As required by this legislation, the FCC recently conducted a rule making, and in its Report and Order, Implementation of the Cable Television Consumer Protection and Competition Act of 1992 in MM Docket No. 92-259 [FCC 93-144], it amended 47 C.F.R. § 76.51(a) effective May 3, 1993, to add communities to three other major markets in which separate rulemaking proceedings were pending: (1) Rome added to Atlanta, GA; (2) Chillicothe added to Columbus, OH; and (3) New London added to Hartford-New Haven-New Britain-Waterbury, CT, *ibid.* ¶ 50, fn 149 [p. 32]. A Note was added to § 76.51 to exempt such petitions for rulemaking from the public notice provisions of 47 C.F.R. § 1.403. The FCC also delegated authority to the Chief, Mass Media Bureau, to act on them in order to expedite the development of a realistic major market list, *ibid.* fn 150 [p. 32].

3. WMFP began operation in 1987. Lawrence, its city of license, is an integral part of, and one of the cities named in the Boston-Lawrence-Salem,

² Amendment of § 76.51. Major Television Markets, 102 FCC2d 1062, 1070-74 (1985).

³ Quincy Cable TV, Inc. v. FCC, 768 F.2d 1434 (D.C. Cir. 1985), cert. denied sub nom. National Association of Broadcasters v. Quincy Cable TV, Inc., 106 S.Ct. 2889 (1986); Century Communications Corp. v. FCC, 835 F.2d 292 (D.C. Cir. 1987).

⁴ Pub. L. No 102-385, 102 Stat. ____ (1992).

MA/NH Consolidated Metropolitan Statistical Area [CMSA] in the 1990 U.S. Census. In fact, the Lawrence-Haverhill MA-NH Primary Metropolitan Statistical Area [PMSA] with 393,516 people is the second most populous after the Boston PMSA (2,870,669) of the six PMSAs in this CMSA.⁵ Lawrence is approximately 25 miles North of Boston.

4. Worcester is included by the FCC in the Boston-Cambridge-Worcester market in § 76.51(a)(6) even though it is further from Boston than Lawrence, approximately 50 miles West. Worcester is the principal community in its U.S. Census Metropolitan Statistical Area [MSA] which is not part of the Boston-Lawrence-Salem CMSA. Worcester is presumably included with Boston in § 76.51(a)(6) because WHLL(TV) began operation there in 1970. Because Lawrence is both closer Boston and part of its CMSA, it would doubtless have been included in § 76.51(a)(6) in 1972 had WMFP then been operating.

5. WMFP, with its transmitter located in downtown Boston at 1 Beacon Street, is obviously a television station in the "Boston-Cambridge-Worcester" market. Lawrence is within the Grade A contour of nine other television stations in this market⁶ and WMFP(TV) is one of 13 stations included

⁵ In 1992, the Office of Management and Budget redefined this CMSA. It is now the Boston-Brockton-Nashua MA-NH-ME-CT CMSA and Lawrence is included in the Boston PMSA.

⁶ WBZ-TV, Boston, WCVB-TV, Boston, WFXT(TV), Boston, WHDH-TV, Boston, WLVI-TV, Cambridge-Boston, WQTV(TV), Boston, WSBK-TV, Boston, WHSH-TV, Marlborough, and WHLL-TV, Worcester, See Contours from TV & Cable Factbook No. 60, 1992 (Attachment A), official notice requested.

in the Arbitron definition of the Boston television market.⁷ Three of these stations are in New Hampshire, further from Boston than Lawrence. Arbitron's Boston ADI includes Essex County, MA, where Lawrence is located. The Boston ADI includes seven counties in Massachusetts: Barnstable, Essex, Middlesex, Norfolk, Suffolk, Plymouth and Worcester; seven counties in New Hampshire: Belknap, Cheshire, Hillsborough, Merrimack, Rockingham, Stratford, and Sullivan; and one county in Vermont, Windham. The Boston ADI extends North of Lawrence more than 60 miles and West of Lawrence more than 80 miles. All of WMFP's Grade B contour area is within the Boston ADI.

6. The case for the addition of Lawrence to the Boston-Cambridge-Worcester market is far more compelling than the recent addition of Rome, to the Atlanta, GA, major television market. Rome is about 60 miles north of Atlanta and the Grade B coverage of WTLK(TV), Rome, is substantially different from the Grade B coverage of Atlanta television stations. WTLK(TV)'s transmitter site is approximately 50 miles from the antenna sites of the Atlanta stations. Rome is also not part of any U.S. Census Metropolitan Statistical Area. Since Rome has been added to the Atlanta market, a fortiori, Lawrence should be added to the Boston market.

WHEREFORE, petitioner requests that a Notice of Proposed Rule Making be issued to change the market designation in Section 76.51(a)(6) of the

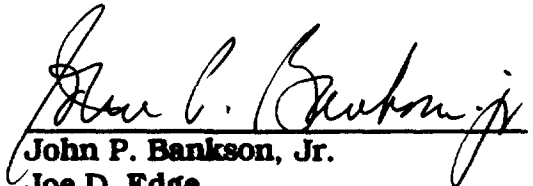
⁷ In addition to WMFP(TV), Arbitron includes the following stations in its Boston Market definition: WBZ-TV Boston, WCVB-TV Boston, WFXT(TV) Boston, WGOT(TV) Merrimack, NH, WHDH-TV Boston, WHLL(TV) Worcester, WSHH-TV Marlborough, WLVI-TV, Cambridge-Boston, WMUR-TV Manchester, NH, WNDS(TV) Derry, NH, WQTV(TV) Boston, and WSBK-TV Boston, see Attachment A.

Commission's Rules from "Boston-Cambridge-Worcester" to "Boston-Cambridge-Lawrence-Worcester."

Respectfully submitted,

MFP, Inc.

By:

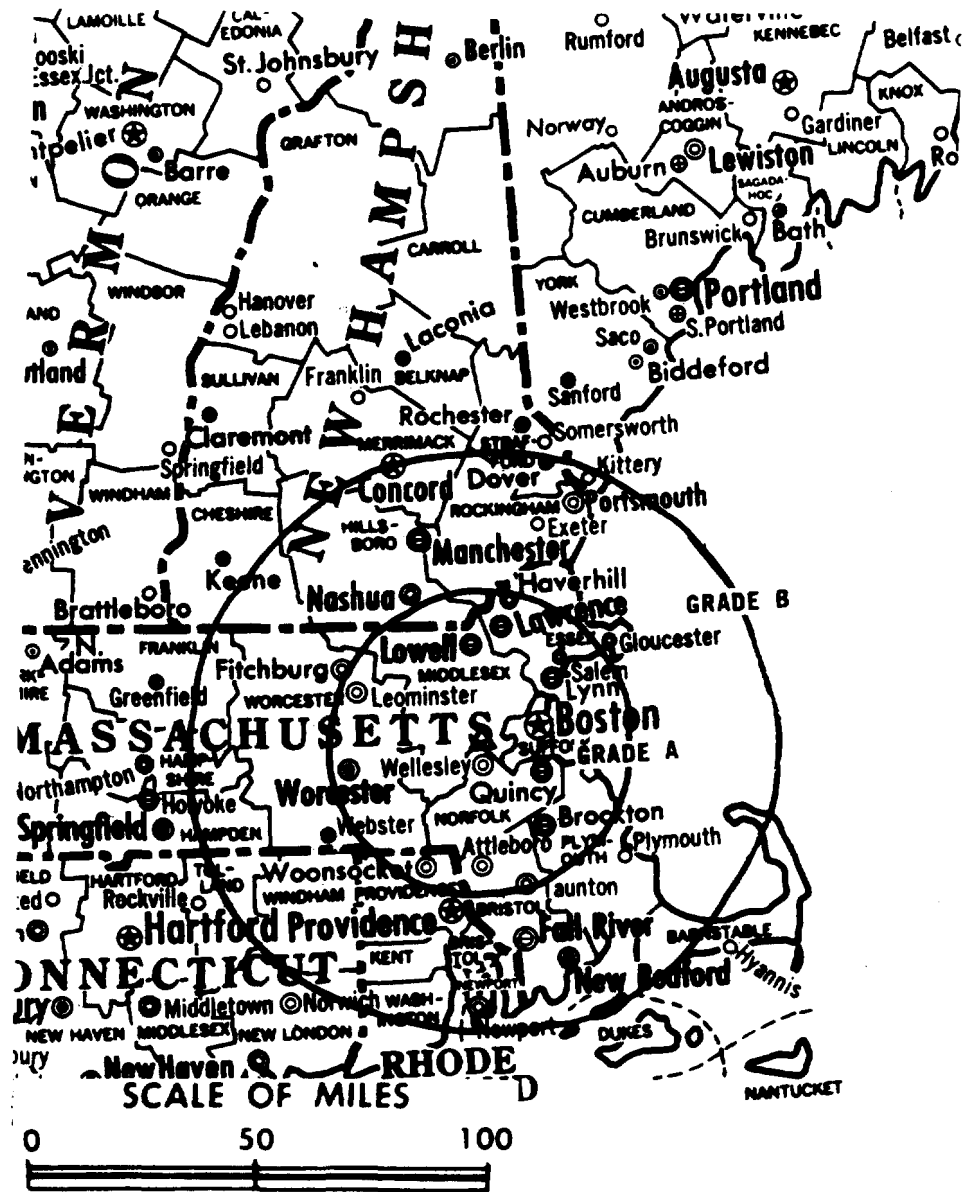

John P. Bankson, Jr.
Joe D. Edge
Its Attorneys

Hopkins & Sutter
888 Sixteenth Street, N.W.
Washington, D.C. 20006
(202) 835-8000

April 30, 1993

Attachment A







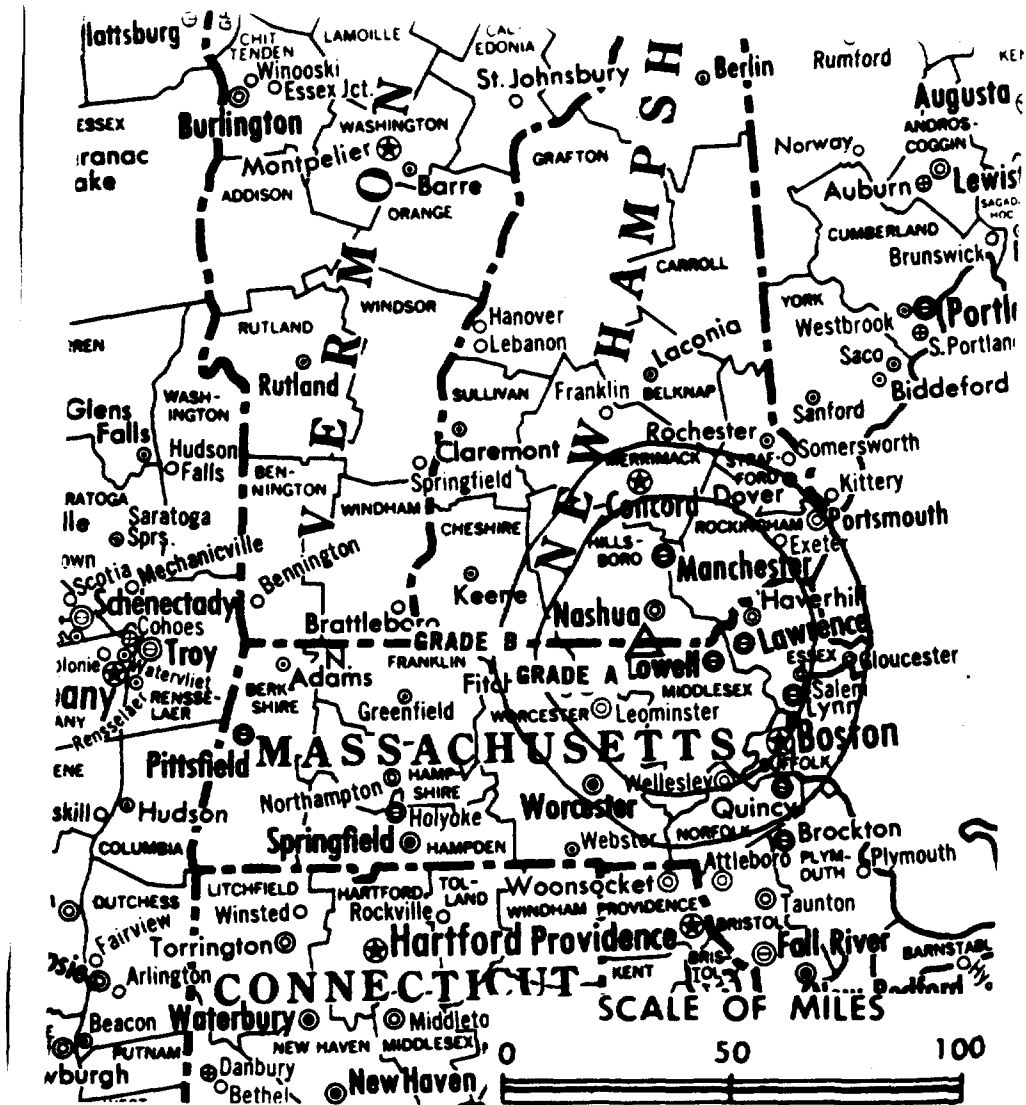
WCVB-TV BMPCT-7316 Granted 7/29/71

© American Map Corp., 1424



WFXT BMPCT-7672 Granted 4/28/77

© American Map Corp., No. 14244



WGOT BMPCT-660701KQ Granted 9/15/86

© American Map Corp., No. 14244



WHDH-TV BPCT-3057 Granted 3/27/63

© American Map Corp., No. 14244



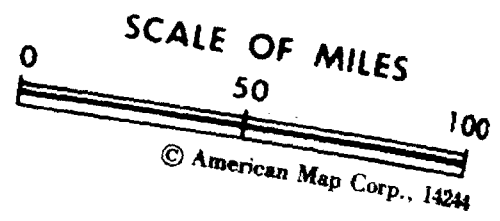


WHSB BMPCT-830822KI Granted 4/10/84

© American Map Corp., No. 14244



WV-TV BPCT-4314 Granted 10/7/70





WMUR-TV BPCT-2407 Granted 11/15/55

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WINDS BPCT-810121KF Granted 7/16/82

© American Map Corp. 14244



WQTV BMPCT-7747 Granted 12/22/78

© American Map Corp., 14244



WSBK-TV BPCT-910130KE Granted 5/31/91

© American Map Corp., No. 14244

CERTIFICATE OF SERVICE

I, Laura A. Painter, hereby certify that on this 30th day of April, 1993, a copy of the foregoing was sent by first-class, United States Mail, postage prepaid, to the following:

WBZ-TV
Group W Television, Inc.
888 7th Avenue
New York, New York 10106

WCVB-TV
The Hearst Corp.
5 TV Place
Needham Branch
Boston, Massachusetts 02194

WFXT(TV)
Boston Celtics Communications L.P.
151 Merrimac Street
Boston, Massachusetts 02114

WHDH-TV
New England Television Corp.
7 Bulfinch Place
Government Center
Boston, Massachusetts 02114

WLVI-TV
Gannett Massachusetts Broadcasting, Inc.
75 Morrissey Blvd.
Boston, Massachusetts 02125

WQTV(TV)
Monitor Television, Inc.
1660 Soldiers Field
Boston, Massachusetts 02135

WSBK-TV
Gillette Communications of Boston, Inc.
555 17th Avenue
Suite 3300
Denver, Colorado 80202

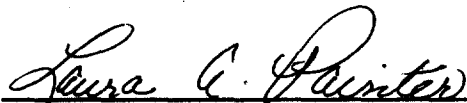
WHSB-TV
Silver King Broadcasting of Massachusetts, Inc.
71 Parmenter Road
Hudson, Massachusetts 01749

WHLL-TV
Corridor Broadcasting Corp.
Box 27
Shrewsbury, Massachusetts 01545

WNDS(TV)
CTV of Derry, Inc.
TV 50 Place
Derry, New Hampshire 03038

WMUR-TV
WMUR-TV, Inc.
50 Cote Street
Manchester, New Hampshire 03101

WGOT(TV)
Paugus Television, Inc.
Box 265
Feeding Hills, Massachusetts 01030-0265


Laura A. Painter